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CNR No.MHJG220012132018

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION,

CHALISGAON, DIST. JALGAON.

(Presided over by N. K. Walke)

L.A.R. No.903/2012 (S.R.No.36/2009)

Exh.57

Kalpana Arunrao Deshmukh, Age 44 years, Occu. Agri.,

R/o Umbarkhed, Tal. Chalisgaon, Through Power of attorney

Shri Arunrao Dinkarrao Deshmukh, R/o Opposite of Vaibhav Mangal

Karyalay, Bhadgaon Road,Chalisgaon,Dist. Jalgon, ... **Applicant/Claimant**

Versus

1. The Special Land Acquisition Officer, Jalgaon
2. The Superintending Engineer, Electric Inspection Circle(**Deleted**)
3. The Executive Engineer, Civil Construction and
Maintenance Department, MSEDCL, Nashik.

4. Deputy Executive Engineer (Civil),

Pra.Si.Kha.Ka., Sub-Division, Jalgaon, ...**Respondents/Opponents**

Appearance : Mr. O.S. Sharma and S.T. Pawar for the claimant

Mr. S.R. Jadhav, the learned A.G.P. for opponent No.1

Mr. S.V. Patil, the learned counsel for opponent Nos.3 and 4.

J U D G M E N T

(Delivered on 19th August, 2023)

The land acquisition reference(for short '**LAR**') is filed by the applicant/claimant under Section(for short '**u/s**') 18 of the Land Acquisition Act, 1894 (for short '**the Act**') for enhancement of compensation awarded by the Special Land Acquisition Officer(for short '**the S.L.A.O.**').

2. The applicant's LAR in brief is that she is owner of plot Nos.1 to 8-area 1263.47 square meter(for short '**sq.mtr.**') and plot Nos.10 to 31-area 4735.28 sq.mtr.(less 45 sq.mtr. road=5953.75 sq.mtr.) in Gat No.443/P situated at *mauje* Umbarkhed, Tal. Chalisgaon(for short '**the acquired land/plots**'). It is acquired by the S.L.A.O. for 33/11 KV Sub-Station Umbarkhed in LAQ SR.No.36/2009. Notifications u/s 4 of the Act published on 11.3.2010. The award passed u/s 11 of the Act on 12.3.2012. Notice u/s 12(2) of the Act received on 19.3.2012 and compensation received under protest. It is meagre and awarded by misusing powers, without considering non-agricultural(for short '**N.A.**') potentiality though bounded by it, situation, sale instances, objections and reply to notices but classified lands on the basis of revenue. It is illegal. Its market value is Rs.1,500 per sq.mtr. Hence this LAR.

3. The opponents resisted the claim by filing written statement (Exh.22) contending that the S.L.A.O. considered situation of the land, crops, comparable and genuine sale instances prior to the date of notification u/s 4 and classified lands on the basis of revenue, quality, fertility etc. Notifications u/s 4, 6 and 9 of the Act issued legally. The award is supported by sound reasons. Possession of land was taken by private negotiations and not under the Act. She accepted compensation. It is adequate, reasonable, proper and legal hence no need to interfere and no cause of action. Her claim is illegal, exorbitant and based on false grounds hence it may be rejected.

4. The following issues(Exh.31) framed on the basis of rival contentions. My findings against each of them with reasons are as under:

Sr.	ISSUES	FINDINGS
1	Whether the petitioner proves that compensation awarded by the S.L.A.O. is inadequate ?	In the affirmative
2	What was the market price of the land on the date of notification u/s 4 of the Land Acquisition Act, 1894 ?	Rs.460 per sq. mtr.
3	Whether the petitioner is entitled for enhanced compensation ? If yes, at what rate ?	Yes. As per above rate upon enquiry
4	What order ?	As per order

REASONS

AS TO ISSUE NOS.1 TO 3 :

5. All issues are interlinked hence discussed jointly. Burden to prove the claim is on the applicant as per the Indian Evidence Act, 1872(for short '**Evidence Act**'). She adduced evidence through her husband/power of attorney holder Arunrao Dinkarrao Deshmukh as A.W.1(Exh.32).

6. She filed sale deeds of 13.5.2008 and 23.12.2004(Exh.35 to 36), power of attorney(Exh.37 and Article 'G'), Award(Exh.38), Mutation Entry Nos. 3413 and 3555(Exh.48 and 49), 7/12 extracts of the land and plot Nos.1 to 8 and 10 to 29(Exh.47 and Article 'A1-A28'), application dated 12.7.2016 (Article'A'), layout map(Article 'B'), N.A. order (Article 'C'), notices/ notifications (Article 'D to I') and its reply dated 19.5.2010 and 30.12.2010.

7. The applicant's learned counsel Adv. Pawar filed written notes of arguments(Exh.51) as per the application and documents, many citations and submitted that the S.L.A.O. has not awarded market rate. The applicant proved her claim. The learned defence counsels did not argue despite giving opportunities. LAR is more than ten years old hence placed for order.

8. A.W.1 deposed as per above Para 1 and 2. The opponents have not examined any witness and not filed any sale deed on the basis of which he fixed market rate but classified lands on the basis of revenue. It is fixed by the State for fiscal purpose prior to 50 years but not re-assessed. Quality of land cannot be determined on its basis in this era of science as the farmer uses modern technology, it improves its fertility hence it is arbitrary. The land having lower classification may fetch higher price as held in '**Raja Bhairabendra Narayan Bhup Vs. Collector of Goalpura, AIR 1987 Gau. 51**'. The State has right of acquisition. It is farmer's loss of land and livelihood. Compensation is a statutory right and not charity hence it should be just and adequate.

9. The award is an offer document, not judgment under appeal but

only proof of the fact that it is passed. Its contents cannot be relied upon unless the material relied upon by the S.L.A.O. is produced and proved as held in '**Chimanlal Hargovinddas Vs. Special Land Acquisition Officer & Ors., AIR 1988 SC 1652**'. Guidelines issued for determining compensation on the basis of comparable sale instances. It should be made as if the valuer is the hypothetical purchaser willing to purchase the land from open market and prepared to pay reasonable price on that date and the vendor is willing to sell it at reasonable price. The Court has to consider only genuine sale instances and plus minus factors in terms of price variation as prudent purchaser would do. Hence matters provided u/s 23 of the Act i.e. market value and comparable terms, identical nature, quality, distance and period etc. require to be applied in a broader sense. Burden is on the opponents to prove the award but failed hence it cannot be read in evidence. There is no defence evidence as to how market price fixed by the S.L.A.O. The applicant is not satisfied with it hence she accepted compensation under protest. Oral protest is sufficient as held in '**Amol Ramdhan Arjun Vs. State of Maharashtra and others, 2001(1) M.L.R. 360**'. But the LAR should be within limitation.

10. So far as limitation is concerned, notification u/s 4 of the Act published on 11.3.2010. The award u/s 11 is of 12.3.2012. Notice u/s 12(2) received on 19.3.2012. The LAR filed on 17.4.2012. As per proviso to Section 18(2) (a) and (b) of the Act, the limitation is six weeks and six months from the date of the award when the applicant is present and absent at the time of award. Thus, it is within limitation. It is necessary to determine nature of the land hence the material on record needs to be analysed.

11. So far as the land is concerned, Adv. Pawar argued that Pilkhod, Umbarkhed, Saygaon, Khadaki and Bilakhed are adjoining to Chalisgaon town. There is *pucca* soil good for construction of houses for citizens hence his remaining land is converted to N.A. and transaction of its remaining land taken place @ Rs.500 per sq.ft. Its cogent evidence given to the S.L.A.O. but neglected and considered sale instances of the last five years but not proved it

hence cannot be considered and, therefore, it is necessary to determine market rate afresh. 7/12 extracts of the plots show N.A. land. Two sale instances filed. It can be admitted without examining its parties u/s 51A of the Act.

12. Adv. Pawar filed plethora of citations. '**Chindha Fakira Patil Vs. Special Land Acquisition Officer, AIR 2012 SC 481**', '**Airports Authority of India Vs. Satyagopal Roy, 2002 CJ (SC) 16**' and '**The Executive Engineer, M.I.W. Vs. Vithhal Damodar Patil and Anr., 2019 CJ (SC) 638**' in respect of fruit trees and well but do not apply. In '**Jawajee Nagnatham Vs. Revenue Divisional Officer Adilabad Andhra Pradesh, 1994 CJ(SC)399**', it is held that lands were situated in the heart of municipal area had a very high market value. In '**Krishi Utpanna Mandi Samiti, Sahaswan District Badaun through its Secretary Vs. Bipin Kumar & another, AIR 2004 SC 2895: (2004) 2 SCC 283**' it is held that basic valuation register maintained by the Registering Authority for collection of stamp duty cannot be used as basis for determination of market value. It is to be done on the basis of one of the methods of sale deeds of comparable lands. In '**Karnataka Urban Water Supply and Drainage Board, Etc. Vs. K. S. Gangadharappa, 2009 CJ (SC) 724**', held that market value cannot be determined without any basis. In '**Ravinder Narain Vs. Union of India, 2003 CJ (SC) 902**', it is held that for determination of market value of land, exemplar comparison with small plots cannot be safe criterion u/s 23 and 24 of the Act when large area acquired but in absence of any other material, it may be used for comparison.

13. The sale instance of the highest value should be considered if it is *bona fide* and genuine as held in '**Anjani Molu Desai Vs State of Ga and Anr., 2010(13) SCC 710**' and '**Chindha Fakira Patil Vs. S.L.A.O., Jalgaon, AIR 2012 SC 481**'. In '**Bayaji Taty Kalunge Vs. State of Maharashtra, 2007(2) ALL MR 316**' it is held that if the lands situated in same village, acquired for the same purpose under same notification, the claimant is entitled to compensation at the same rate on ground of parity. But it cannot be applied directly without considering material on record and the factors i.e.distance

from village, situation, quality, time angle etc. as provided u/s 23(1) and 24 of the Act. All lands in village and its rates are different. Each case must be dealt with independently and its valuation is to be judged on its own merit and also requires to apply principles of good conscience, equity and justice or use guess work to arrive at a logical conclusion by inference and rational work.

14. In '*Koyappathodi M. Ayisha Umma Vs. State of Kerala, 1991(4) SCC 8 : 1991 CJ (SC) 291*', the Hon'ble Apex Court held that different methods of valuation to be adopted to ascertain the market value of the land on the date of notification. The price paid within a reasonable time in *bona fide* transactions of the adjacent land possessing similar advantages i.e. comparative method etc. But there is no straight jacket formula to arrive at a proper market value. All factors should be considered by the Court on the basis of oral and documentary evidence on record.

15. The opposite sides have not cross examined A.W.1 hence his evidence is unchallenged. There is no village map on record. The land is from Umbarkhed. Its situation show sthat it has demand for residence. It is N.A./ plots hence she is entitled to its rate but cuts need to be applied for plus-minus factors and matters provided u/s 23 and 24 of the Act. Sale-deed needs to be considered in determining its just and fair market rate.

16. The sale-deed(Doc.6879) dated 23.12.2004(Exh.36) is of open plot No.54-area 116.25 sq.mtr. and plot No.68- area 116.25 sq.mtr. in *Gat* No.159/1+2 situated at Umbarkhed sold for consideration of Rs.50,000. Adv. Pawar argued that notification u/s 4 published on 26.4.2010 (but it is 11.3.2010) hence after adding 50%(i.e.10% per year) for five years, its rate comes to Rs.430.10 per sq.mtr. But Adv. Pawar has wrongly calculated it as the said sale deed is of two plots, its total area is 232.50 sq.mtr. its rate comes to Rs.215.05 per sq.mtr. and after adding 50%, it comes to Rs.322.58 per sq.mtr. The S.L.A.O. awarded Rs.325 sq.mtr. There is no much difference hence *prima facie* it appears to be just. But five years' gap is too much hence

not comparable as held by our Hon'ble High Court in '**State of Maharashtra Vs. Bhaskar Namdeo Wagh and others, 2009(3) Mh.L.J. 299**', that the transaction immediately preceding or succeeding is good guidance to determine the market value of the acquired land.

17. The sale-deed between Chaitram Gaikwad and Bhalchandra Kumbhar (Doc.2247) dated 13.5.2008(Exh.35) is of open plot No.44-area 83.64 sq.mtr. out of it 41.82 sq.mtr. in Gat No.161 situated at Umbarkhed sold for consideration of Rs.16,000. Adv. Pawar argued that its rate comes to Rs.382.59 per sq.mtr. Notification u/s 4 published on 26.4.2010(it is 11.3.2010) hence after adding 20% for two years (i.e.10% per year as held in '**State of Maharashtra Vs. Baliram Girdhar Patil, 2006 LAC 375 Bom.**'), it comes to Rs.459.12 per sq.mtr.(approx. Rs.460). It is well settled that higher market price should be considered. Rate of this sale deed is more than that of Exh.36. Its plot is from the same village, two years' time gap is less and its price is also higher hence it is comparable sale instance (**emphasis supplied**) hence its rate can be applied to the applicant's land.

18. So far as the applicant's prayer is concerned, as per reply dated 19.5.2010(Article 'H') to notice u/s 4(1), she stated rate of Rs.125 per sq.ft. of the plots adjacent to Umbarkhed. As per reply dated 30.12.2010 (Article 'I') to notice u/s 9(3)(4), she stated Rs.150 per sq.ft. (1 sq.mtr.=10.76391 sq.ft.) Then it comes to Rs.1345 and Rs.1615 sq.mtr. Considering N.A. nature and market price of the land, she prayed for rate of Rs.1,500 per sq.mtr. But Adv. Pawar argued that her remaining land is converted to N.A. and its market rate is Rs.500 per sq.ft. which comes to Rs.1620 per sq.mtr. and settlement in L.A.R. taken place wherein Rs.1,300 sq.mtr. market rate awarded which is four times of Rs.325 as value of the land is increased. But the applicant has not filed its award in LARs or settlement in Lokadalats. In '**Chimanlal Hargovinddas Vs. S.L.A.O., Poona and anr., AIR 1988 SC 1652**', '**Manoj Kumar and Ors. Vs. State of Haryana and Ors. (2018)13 SCC 96** and in '**Umadevi Rajkumar Jeure Vs. the Collector, Solapur, in Writ Petition**

No.3110/2016 decided on 24.6.2021' our Hon'ble High Court held that settlement, compromise in *Lokadalats* and awards in L.A.R. cannot be precedent without any material on record as it causes prejudice to the opposite side as each plot or parcel of land is distinct/separate.

19. Thus, there is no consistency in her claim but it cannot be denied on this ground in view of the bar u/s 25(2) of the Act. Considering location of plots, it would be appropriate to enhance compensation as the S.L.A.O. committed mistake hence her claim is acceptable partly on the ground of equity and parity and I fix its market price @ Rs.460 per sq.mtr. But there is too much difference in its total acquired area which needs to be considered.

20. So far as total acquired area is concerned, as per the sanctioned layout's map(Article 'B'), total area of plot Nos.1 to 8 and 10 to 29 is 3769.01 sq.mtr., area under open space(O.S.) is 623.86 sq.mtr. and area under road is 1707.13 sq.mtr. Thus, total area of *Gat* No.443 is 6100 sq.mtr. as per its 7/12 extract and it is converted to N.A. as per order dated 21.5.2007(Article 'C'). Hence its total area might after its conversion to N.A. and the sale instances are also of N.A. plots and, therefore, area of open space and road cannot be considered while awarding compensation. But *prima facie* it appears that the S.L.A.O. considered it and made mistakes in calculations which are apparent on the face of the record(**emphasis supplied**).

21. As per the application(Exh.1), plot Nos.1 to 8's area is 1263.47 sq.mtr. and plot Nos.10 to 31's area is 4735.28 sq.mtr. Total 5,998.75 sq.mtr. Difference 101.25 sq.mtr. only and there is no explanation as to how arrived it as total area of all the plots is less. But as per award, he deducted 45 sq.mtr. road touch area of plot No.9. It comes to 5953.75 sq.mtr. but the S.L.A.O. wrongly shown it 5553.75 sq.mtr. Its difference is 400 sq.mtr. It may be due to wrong calculation as the applicant's all plots have been acquired and as per award only land for road is given to her on negotiations/with consent.

22. There is difference in its amount as it does not match because as

per the award compensation of Rs.7,00,275 awarded @ Rs.325 per sq.mtr. Its acquired area comes to 2155 sq.mtr. approx.(7,00,275 divided by 325). Thus, difference is (5954-2155) 3800 sq.mtr. But as per the sanctioned layout's plots' total area is 3769.01 sq.mtr. It does not match. It created doubts.

23. As per 7/12 extracts of plot Nos.1 to 8 and 10 to 29(Article 'A1 to A28'), its total area comes to 3667.75 or 3667.76 sq.mtr. Hence the difference is (5953.75-3667.75) 2286 sq.mtr. There is difference of 400 sq.mtr. due to wrong calculation but no corrigendum or amendment of the award is on record. Thus, the applicant claiming compensation of 2286 sq.mtr. more land without any record or right and it is accepted by the S.L.A.O. as he himself shown acquisition of more land in the award though compensation is awarded for all plots and not for total area of Gat No.443 i.e. 6100 sq.mtr. Cuts are made towards development while awarding compensation for N.A./plots' land as held in '**Karnataka Urban Water Supply and Drainage Board, etc. Vs. K. S. Gangadharappa and Anr. etc. Civil Appeal No.2549-2553 of 2009 decided on 15.4.2009 (SC)**', '**Ravindra Narain and Anr. Vs. Union of India, Appeal (Civil) 11733-11734 of 1995 decided on 28.02.2003**, in '**K. S. Shivadevamma Vs. Assistant Commissioner & Land Acquisition Officer, 1995 CJ(SC) 475**' held that deduction of 53% in lieu of expenditure for providing basic amenities and further deduction towards development charges @ 33½% ordered by the Hon'ble High Court. Hence the S.L.A.O. was not expected to consider 623.86 sq.mtr. open space and 1707.13 sq.mtr. road area being public land after sanctioning the layout but he was required to consider only all plots' area i.e. 3769.01 sq.mtr. but he considered total 5998.75(minus 45 mtr. road area) and 5953.75 sq.mtr. but made mistake in its calculation by showing it 5553.75 sq.mtr. in the award's final appendix. But there is no corrigendum or amendment to it hence it needs to be enquired into.

24. In view of this, it appears that the applicant might be claiming enhanced compensation fraudulently in collusion with the S.L.A.O. as there is nothing on record as to area of Plot Nos.9 but it shows that 45 sq.mtr. left for

its road with consent of its owner but in fact plot Nos.9 is not shown in the sanctioned map. There is also nothing about acquisition/or existence of plot Nos.30 and 31 to compare total area of 6100 sq.mtr. of Gat No.443 to find reason of difference. But 7/12 extracts and revenue record have presumptive value u/s 157 of the Maharashtra Land Revenue Code, 1966.

25. As per the reply to notices u/s 4(1) of the Act dated 19.5.2010 (Article 'H'), there were 29 plots(except plot No.9). As per the Power of attorney dated 9.4.2012(Article 'G') of A.W.1 Arun, there were Plot Nos.1 to 8 and 10 to 31 but in fact there are no Plot Nos.30 and 31 in the layout and its 7/12 extracts are not filed(**emphasis supplied**). Mutation Entry No.3555 (Exh.49) is in respect of sale of Plot Nos.1 to 3 between Suresh Choudhary (for Shashikant Bhamre Association) and the applicant. Mutation Entry No. 3413 dated 3.11.2007(Exh.48) is in respect of sale of Plot Nos.4 to 29 also between them. Its sale deeds not filed on record to compare its total area. Thus, it can safely be said that the applicant has no evidence of her title to Plot Nos.30 and 31. It creates doubt about total area of her plots as claimed by her as the award is not amended by any corrigendum, *shuddhipatrak*.

26. It is surprising to note that as per award, total compensation of for 5953.75 sq.mtr. @ Rs.325 comes to **Rs.19,34,968.75**(i.e.after deducting 45 sq.mtr. for road). But as per the award, total compensation calculated is Rs.7,00,275 @ Rs.325 per sq.mtr. Total area acquired comes to 2154.69231 approx. 2155 sq.mtr. (7,00,275 divided by 325) as stated above while as per the layout map all plots' total area is 3769.01 sq.mtr. Thus, calculations of compensation and total area are apparently false on the face of record as there is vast difference in it hence adverse inference is drawn against her u/s 114(g) of the Evidence Act that she concealed some material facts and not come before the Court with clean hands (**emphasis supplied**).

27. The applicant deleted opponent No.2 after framing of issues. The application dated 12.7.2016(Article 'A') of A.W.1 to Adv. O.S. Sharma is

about assurance given by him as to speedy disposal of LAR due to delay. It reveals that during pendency of litigations in the Hon'ble High Court disposed of as withdrawn. The award was rejected and again filed it. In view of the circumstances, the applicant filed affidavit(Exh.56) to the effect that no litigation is pending in any Court as per order passed below Exh.1.

28. In view of these peculiar facts, difference in total area of all plots and acquired area, non-existence of plot Nos.9, 30 and 31 and her conduct, probability of selling of plots before or after acquisition of land cannot be ruled out hence it would be just to get her affidavit that she or earlier owner has not sold any plot by registered sale deed and no agreement is entered into with anyone before or after acquisition. If it is so, then injustice may be caused to the said vendees and the applicant may take its undue advantage.

29. In view of these reasons, it can safely be said that if documents correct then she made false claim due to less area of plots but shown more land in the award in collusion with all stakeholders to get exorbitant compensation fraudulently. It is misappropriation of public funds with *mala fide* intention. Its probability cannot be ruled out due to absence of all opponents and non filing and not proving material documents i.e.Articles 'A to I' and 'A1 to A28' by her cleverly. But this Court cannot turn blind eye to it as huge public money is involved in it and there is sufficient material on record as to misconduct, fraud and abuse by other stakeholders.

30. In the result, I draw adverse inference u/s 114(g) of the Evidence Act that her 5998.75, 5953.75 or 5553.75 sq.mtr. land is not acquired as stated in the award, the application(Exh.1) and A.W.1's affidavit but she claimed exorbitant compensation with ulterior motive in collusion by misleading and concealing material facts. Doubts created about total area of her acquired land of all plots in the layout as per its map(Article 'B') as it is quite less than that i.e. 3667.75 or 3667.76 sq.mtr. It shows total area of plot Nos.1 to 8 and 10 to 29 is only 3769.01 sq.mtr. as there is open space of 623.86 sq.mtr. and road

area is 1707.13 sq.mtr.(Total 6100). It is inconsistent with contents of the award and documentary evidence hence its judicial note needs to be taken u/s 114 of the Evidence Act against her as *prima facie* misappropriation of public funds is evident. Considering overall conduct of all the stakeholders including the applicant, A.W.1 and the S.L.A.O., it needs to be enquired into by the Collector, Jalgaon to find the truth(**emphasis supplied**) and to do justice and, therefore, copy of this order needs to be sent to the Collector through the Hon'ble the Principal District and Sessions Judge, Jalgaon.

31. A.W.1's evidence does not inspire confidence. Her application is not as per the facts but she concealed material facts and made false claim and its probability cannot be ruled out in view of the above reasons as the material on record created doubt about her claim for acquired land due to inconsistency in oral and documentary evidence hence her claim is not acceptable fully but it cannot be denied on this ground as Section 25 of the Act provides that the compensation awarded by the Court shall not be less than that awarded by the S.L.A.O. hence I am constrained to accept her claim partly subject to enquiry.

32. So far as taking of possession of land is concerned, Adv. Pawar argued that it is taken on 19.6.2009. Notification u/s 4(1) of the Act published and award passed due to delay on the part of the Government hence she is entitled for rent/interest u/s 34 of the Act. She relied upon '**State of Maharashtra through Sub Divisional Officer and Special Land Acquisition Officer Vs. Kailash Shiva Rangari, 2016 CJ (Bom) 381**', wherein the Collector was directed to pay interest on compensation holding that completion of acquisition not compulsory but compensation may be awarded when not completed. As per the application, it is 19.6.2009. But 7/12 extract of Gat No.443(Exh.47) shows that N.A. land is barren since 2004-05 i.e. prior to taking of its possession hence it can safely be said that no loss caused to her as she was not taking any crop there hence not acceptable as possession was also taken after private negotiations between them as stated in the award but her claim cannot be denied on this ground and if any loss is caused to her, she

is entitled for rent, damages and interest and the Collector is liable to pay it from the date she lost possession by exercising powers u/s 34 of the Act and to decide the issue expeditiously to do justice with the sufferer.

33. As held above, the first sale instance's per sq.mtr. rate is Rs.460. It is more than Rs.325(awarded by the S.L.A.O.). It is about its 1.42 times. An honest attempt is made to strike balance between rights of both the parties considering plus minus factors and the above reasons, I fix the market price of the acquired land @ Rs.460 per sq.mtr. But as per 7/12 extracts, total area of plot Nos.1 to 8 and 10-29 comes to **3667.75** sq.mtr. hence she is entitled to compensation only for it. Its total compensation is Rs.16,87,165. It is more than that awarded by the S.L.A.O. i.e.Rs.7,00,275 @ Rs.325. It is about 2.41 times hence just, reasonable and fair. But she is not entitled for compensation for **5953.75** or **5998.75** sq.mtr. as it includes public land i.e. open space and road but entitled to other consequential benefits as held in '**Chandrashekhar Vs. Additional Special Land Acquisition Officer, AIR 2009 SC 3012**', i.e. 30% solatium on the enhanced compensation and interest accrued on it; 12 % component and interest @ 9% p.a. on the enhanced compensation amount from the date of taking possession or award for a period of one year and thereafter @ 15% p.a. till the amount is deposited. In the light of these reasons, the applicant's claim and the arguments advanced by Adv. Pawar are partly acceptable and, therefore, I hold that the compensation awarded by the S.L.A.O. inadequate and the applicant is entitled for enhanced compensation for the acquired land/plots only as held above subject to payment of deficit court fees and enquiry, In the result, the application deserves to be allowed partly. I answer Issue Nos.1 to 3 in the affirmative and accordingly pass following order in answer to Issue No.4.

ORDER

1. The reference is allowed partly subject to enquiry by the Collector.
2. Forward copy of this order to the Collector, District Jalgaon through the Principal District and Sessions Judge, Jalgaon for information and

necessary action as *prima facie* there is misappropriation of public funds in collusion by all the stakeholders.

3. The opponents do pay enhanced compensation to the claimant at the rate of Rs.460 per sq.mtr. for 3667.75 sq.mtr. @ Rs.460 per sq.mtr. land of plot Nos.1 to 8 and 10 to 29 only in Gat No.443 situated at *mauje* Umbarkhed, Tal. Chalisgaon, Dist. Jalgaon.
4. The claimant in person to file her affidavit to the effect that she or earlier owner has not sold by registered sale deed or by agreement, any plot out of plot Nos.1 to 8, 10 to 29 and 30 and 31 in Gat No.443 situated at *mauje* Umbarkhed, Tal. Chalisgaon, to anyone before or after acquisition of these plots by the S.L.A.O.
5. The compensation paid by the S.L.A.O. to the claimant be deducted.
6. The opponents do pay to the claimant interest at the rate of 9% per annum for the first year from the date of notification u/s 4 of the Land Acquisition Act, 1894 i.e. from 11.3.2010 and, thereafter, at the rate of 15% per annum till the realisation of the entire amount u/s 28 of the Land Acquisition Act, 1894.
7. The claimant is entitled to 12% component and 30% solatium u/s 23(1A) and (2) of the Land Acquisition Act, 1894.
8. The claimant do pay the requisite deficit court fees if any.
9. The Award and bill of costs be prepared accordingly.
10. Dictated and pronounced in open Court.

Sd/-

(N. K. Walke)

Date : 19.8.2023

Civil Judge Senior Division, Chalisgaon.